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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/705,811 | 11/10/2003 | Satoshi Mizutani | 20050/0200482-US0 | 5411 |
| 7278 | 7590 | 08/09/2006 | EXAMINER | |
| DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257 | | | HAND, MELANIE JO | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3761 | |

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,811

Applicant(s)

MIZUTANI ET AL.

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The claim status identifier for claim 10 reads "Previously Presented" which is incorrect. Appropriate correction is required.

Response to Arguments

Applicant's arguments, see Remarks, filed May 22, 2006, with respect to the objection to claim 12 have been fully considered and are persuasive. The objection to claim 12 has been withdrawn.

Applicant's arguments with respect to the rejection of claims 1-18 under 35 U.S.C. 112 have been fully considered and are persuasive. The rejection of claims 1-18 under 35 U.S.C. 112 has been withdrawn.

Applicant's arguments with respect to the rejection of claims 1-18 under 35 U.S.C. 102 have been fully considered but they are not persuasive. As can be seen in Figs. 8, 9, 17 and 29 taught by Buell, the flexure hinges 23 A,B,C are each in the form of slits. Therefore the amendment to the claims has not overcome the rejection of claims 1-18 under 35 U.S.C. 102 as anticipated by Buell.

Drawings

The amendment to the claims filed May 22, 2006 renders the claims consistent with the drawings. Therefore the objection to the drawings has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Buell (U.S. Patent No. 5,197,959).

With respect to **Claims 1,4-6,17**: Buell teaches an absorbent article 10 comprising deformation element 20 and absorbent body 39 that is capable of being pinched by the user's thighs and held adjacent to, or partially within, the labia. (Col. 3, lines 23-25, Col. 5, lines 53-55) Buell teaches topsheet 45 and a backsheet defining the body-facing and garment-facing surfaces of absorbent body 39. Article 10 has a first axis that is substantially parallel to an anteroposterior axis of a wearer and a second axis that is perpendicular to the first axis. Buell teaches flexure hinges 23A,B,C that are comprised of slits as can be seen in Figs. 8, 9, 17 and 29. These hinges extend in a longitudinal direction substantially parallel to a longitudinal axis of article 10 and having a predetermined length and width that facilitate the bending of deformation element 20 into a convex upward configuration. The flexure hinges create a differential bending resistance along a transverse cross-section of the article, the bending resistance being less at the sites of the hinges.

With respect to **Claims 2,3,7,11-13**: Buell teaches linear central hinge 23A that facilitates a "W" bending configuration (Fig. 16) (Col. 17, lines 15-20), the central portion of which hinge

constitutes a bending element piece that has a dimension extending parallel to a vertical direction and a second dimension that extends parallel to the longitudinal axis of said article and crosses a transverse centerline. The "W" folding configuration is achieved by applying force to article 10 and bending flexural hinges 23A and 23B, thus defining a central bending element that extends in the vertical direction at an angle toward sides 31. With respect to claim 12, the bending element pieces defined by the central portions of hinges 23B,C extend for a prescribed length and at a prescribed angle to said first axis.

With respect to **Claim 8,10**: Buell teaches that hinges 23B are curvilinear, are located between the longitudinal centerline of article 10 and the edges 31 and extend substantially the entire length of the article and also extend to the side edges 31. (Col. 13, lines 38-42, 53-55)

With respect to **Claim 9**: Buell teaches protuberance hinges 23C that cross central hinge 23A and thus the longitudinal centerline of the article. (Fig. 6) (Col. 13, lines 40-42)

With respect to **Claim 14**: Buell teaches that article 10 can be an interlabial pad. (Col. 5, lines 46-48) As can best be seen from Figs. 11 and 18-20, Buell teaches a slot that is capable of receiving a user's finger to apply the article as an interlabial pad.

With respect to **Claims 15,16**: An interlabial pad by its nature is capable of functioning as an absorbent article for incontinence and as sanitary napkin, therefore Buell teaches an incontinence pad for urine and a sanitary napkin.

With respect to **Claim 18**: Please see the rejection of claim 1 in addition to the following:

Because Buell teaches varying bending configurations, a user is able to adjust the flexibility and form of article 10.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'T. Zalukaeva', written over the printed name and title.